

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

November 16, 2006

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, November 16, 2006, at 1:40 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Darrell Downing, Chair; Don Anderson, Vice-Chair; Bob Aldrich; Harold Warner Jr.; Elizabeth Bishop; M.S. Mitchell; Bud Hentzen; Ronald Marnell; Hoyt Hillman; Morris K. Dunlap and Michael Gisick. John W. McKay Jr. and Bill Johnson were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Derrick Slocum, Associate Planner; David Barber, Advanced Plans Manager and Maryann Crockett, Recording Secretary.

DOWNING announced that the workshop scheduled for Thursday, November 30, 2006, would begin at 11:00 a.m. instead of 1:30 p.m. as originally scheduled.

❖ SUBDIVISION ITEMS

1. Consideration of Subdivision Committee recommendations

1-1. **SUB 2005-102: One-Step Final Plat -- HOLLAND COMMERCIAL ADDITION**, located on the northwest corner of Kellogg and Tyler Road.

NOTE: This is a replat of the Payday Addition, Schniepp Addition and a portion of the Westport Addition in addition to unplatted property. The site has been approved for a zone change (ZON 2003-50) from SF-5, Single-Family Residential and LC, Limited Commercial to GC, General Commercial. The Holland Commercial Community Unit Plan (CUP 2003-52, DP-268) was also approved for this site.

STAFF COMMENTS:

- A. The applicant shall guarantee the abandonment/relocation of sanitary sewer and extension of City water to serve the lots being platted. A temporary easement is needed to cover the existing sewer line until abandonment/relocation.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved subject to revisions. The drainage easement needs to be widened and extended.**
- D. In accordance with the CUP approval, a traffic study is required that addresses access control, dedications, turn lanes and accel/decel lanes. **A traffic study has been submitted.**
- E. In accordance with the CUP approval, complete access control is required along Belview, unless determined otherwise by the traffic study. Complete access control is also required along Byron. **Traffic Engineering has approved the access controls, which includes a rights-in/out opening along Belview.**
- F. **GIS** has requested revised street suffixes (i.e. Tyler Rd, Kellogg St, Byron Ave, Belview Ave, Dubon Ave).
- G. **City Engineering** requests the submittal of a guarantee for the paving of the east half of Byron and paving of Belview from the access point to Tyler to commercial street standards.
- H. **City Engineering** requests the dedication of 5-foot additional right-of-way for Belview.
- I. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- J. On the final plat tracing, the MAPC signature block needs to reference "Darrell A. Downing, Chair".
- K. An on-site benchmark is needed.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov. Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **ANDERSON** seconded the motion and it carried (11-0).

- 1-2. **SUB 2006-87: Final Portion of Overall Preliminary Plat -- MEADOWLAKE BEACH ADDITION** located on the northwest corner of 55th Street South and Clifton.

NOTE: This site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family Residential and will be converted to SF-5, Single-Family Residential upon annexation. This plat is located within the Derby Area of Influence.

This is a final portion of the overall preliminary plat and represents the first phase of development.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. The sewer main in lieu of assessment fees need to be included with sewer petition.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City/County Engineering** needs to comment on the status of the applicant's drainage plan. **County Engineering recommends easements for drainage. City Engineering has approved the drainage plan. An off-site drainage agreement may be needed. The plat needs to be expanded to include additional property to the west as a Reserve for detention.**
- E. **Sedgwick County** recommends City of Wichita annex Clifton per KSA Statute 12-520(f).
- F. The owners of the reserves on the plat shall bear the cost of any repair or replacement of improvements within said reserves resulting from street construction, repair, or maintenance.

- G. Complete access control is denoted along the Clifton frontage with the exception of two street openings. The final plat shall reference the dedication of access controls in the plat's text. **Access controls are approved.**
- H. **Traffic Engineering** needs to comment on the need for additional right-of-way along Clifton. **The right-of-way is approved.**
- I. The Applicant shall guarantee the paving of the proposed streets.
- J. The plat's text shall include a correct spelling of "drainage".
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- N. The site is located within the Maximum Mission Area of the Air Installation Compatible Use Zone (AICUZ) study to identify noise impact areas around McConnell Air Force Base. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- O. **GIS** needs to comment on the plat's street names. **Meadowlake needs to be revised to Meadowview.**
- P. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- Q. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- R. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- Y. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- Z. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address:

cholloway@wichita.gov. Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **ANDERSON** seconded the motion and it carried (11-0).

❖ **PUBLIC HEARINGS – VACATION ITEMS**

2-1. VAC 2006-40: Request to Vacate an Easement Dedicated by Separate Instrument.

<u>APPLICANTS/OWNERS:</u>	FBN Corporation, c/o Perry Duncan Joel Assoc., LLC, c/o Len Marrotte
<u>AGENT:</u>	Baughman Company, PA c/o Phil Meyer
<u>LEGAL DESCRIPTION:</u>	Generally described as the 20-foot wide easement dedicated by separate instrument (Film/Page 28770416, see Exhibit provided by applicant) located along a south and east portion of Lot 1, Harrison Park 3 rd Addition, Wichita, Sedgwick County, Kansas
<u>LOCATION:</u>	Generally located on the east side of Webb Road and south of Lincoln Street. (WCC District #II)
<u>REASON FOR REQUEST:</u>	Development and encroachment into a portion of easement
<u>CURRENT ZONING:</u>	The site and abutting southern, northern and eastern sites are zoned "LC" Limited Commercial. Property west and across Webb Road is zoned "SF-5" Single-family Residential

The applicant has applied for the vacation of the described easement dedicated by separate instrument. There is a projected water line in the east portion of the easement, Project #448-90188. There are no sewer lines or manholes in the easement. Comments from franchised utilities have not been received and are needed to determine if they have utilities in the easement. The Harrison Park 3rd Addition was recorded with the Register of Deeds September 7, 2000. There is an associated Lot Split of Lot 1, Harrison Park 3rd Addition, SUB2006-67, approved October 2, 2006.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the easement dedicated by separate instrument, with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time October 26, 2006 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the easement dedicated by separate instrument described in the petition should be approved with conditions:
- (1) A projected water line is in the eastern portion of the easement dedicated by separate instrument. Any relocation or reconstruction of water/utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide Public Works with any necessary plans for review and approval of relocated water line. Provide Public Works with a petition/guarantee to relocate the water line. Provide Planning with an easement to be recorded with the Register of Deeds. Retain the easement until all utilities have been relocated or provide a temporary easement to Planning to go with the vacation order to WCC. If the water line is to remain in this portion of the easement dedicated by separate instrument, retain that portion of the easement. If the water line reverts to a private line provide Public Works with required plans for review and approval and any required guarantee/petition. Provide Planning staff with a legal description of the approved vacated (portion) of the easement on a word document via e-mail.
 - (2) All improvements shall be according to City Standards, at the applicant's expense.
 - (3) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the

vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) A projected water line is in the eastern portion of the easement dedicated by separate instrument. Any relocation or reconstruction of water/utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide Public Works with any necessary plans for review and approval of relocated water line. Provide Public Works with a petition/guarantee to relocate the water line. Provide Planning with an easement to be recorded with the Register of Deeds. Retain the easement until all utilities have been relocated or provide a temporary easement to Planning to go with the vacation order to WCC. If the water line is to remain in this portion of the easement dedicated by separate instrument, retain that portion of the easement. If the water line reverts to a private line provide Public Works with required plans for review and approval and any required guarantee/petition. Provide Planning staff with a legal description of the approved vacated (portion) of the easement on a word document via e-mail.
- (2) All improvements shall be according to City Standards, at the applicant's expense.
- (3) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

MITCHELL moved, **HILLMAN** seconded the motion and it carried (11-0).

2-2. VAC 2006-41: Request to Vacate a Portion of Platted Street Right-of-way.

<u>APPLICANTS:</u>	Catholic Diocese of Wichita c/o Robert Hemberger
<u>AGENT:</u>	Baughman Company, PA c/o Phil Meyer
<u>LEGAL DESCRIPTION:</u>	Generally described as a southern portion of the platted 40-foot wide half-street Woodchuck Lane ROW as dedicated on the Notre Dame High School Addition, that is located between Lot 1, Block C, Meadow Estates Addition (east) and Lot 1, Notre Dame High School Addition (west), all in Wichita, Sedgwick County, Kansas
<u>LOCATION:</u>	Generally located south of Central Avenue, midway between Ridge & Tyler Roads, north of the Woodchuck Lane – Redbarn Lane intersection (WCC District V)
<u>REASON FOR REQUEST:</u>	Expansion of the Bishop Carroll High School complex
<u>CURRENT ZONING:</u>	The site is platted undeveloped half-street public right-of-way. All abutting properties are zoned "SF-5" Single-family Residential

The applicant is requesting vacation of the described platted 40-foot wide, portion of the platted half-street ROW of Woodchuck Lane as dedicated on the Notre Dame High School Addition. The Notre Dame High School Addition was recorded with the Register of Deeds April 10, 1963. There is a water line that crosses a portion of the proposed vacated ROW. Comments from franchised utilities and Storm Water have not been received and are needed to determine if they have utilities/drainage in the ROW. The proposed vacation would prevent Woodchuck from continuing straight south, through unplatted Diocese/Bishop Carroll property (partially developed as playing fields) to a platted 58-foot Woodchuck ROW, as dedicated on the Whispering Pines Addition, which was recorded May 16, 1979. The proposed vacation would not dead-end Woodchuck, as it continues immediately southeast to Red barn Lane (60-foot ROW), as platted on the Meadowview Estates Addition, which was recorded June 20, 1955. Redbarn currently dead-ends against the unplatted Diocese/Bishop Carroll property. The street design of Woodchuck as recorded on the Meadowview Estates Addition does not provide the necessary ROW for it to continue straight south, through the unplatted Diocese/Bishop Carroll property. A small irregular shaped Lot 1, Block C, the Meadowview Estates Addition (which is not developed) is in place rather than additional half street Woodchuck ROW. The continuation of Redbarn (Meadowview Estates Addition) to Woodchuck (Whispering Pines Addition) depends on the platting of the Diocese/Bishop Carroll property, which is partially used by playing fields. As the area is platted today the above mentioned dedicated Redbarn and Woodchuck ROWs dead-end against the unplatted Diocese/Bishop Carroll property. Continuation of those two described streets will be resolved at the time of the platting of the abutting unplatted Diocese/Bishop Carroll property.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted half-street Woodchuck ROW, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time October 26, 2006 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted street ROW and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted Woodchuck half-street ROW described in the petition should be approved with conditions:
1. Vacate that portion of the platted half street ROW as approved by the Traffic Engineer. Westar has equipment in the proposed vacated ROW. Retain a portion or the entire vacated half street ROW as a utility easement as recommended by the Public Works and utilities. Provide Planning staff with a legal description of the approved vacated (portion) of the easement on a word document via e-mail.
 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If utilities are to be relocated retain the ROW as easement, until they are relocated and a replacement easement is recorded with the Register of Deeds to cover the relocated utilities. Provide Planning Staff with the original dedication of easement for relocated public utilities to be recorded with the Register of Deeds. If the water line reverts to a private line provide Public Works with required plans for approval and any required guarantee/petition.
 3. All improvements shall be according to City Standards, at the applicant's expense, including any continuation of curbing/guttering/drainage. As needed provide Public Works with a guarantee/petition for those needed improvements.
 4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate that portion of the platted half street ROW as approved by the Traffic Engineer. Westar has equipment in the proposed vacated ROW. Retain a portion or the entire vacated half street ROW as a utility easement as recommended by the Public Works and utilities. Provide Planning staff with a legal description of the approved vacated (portion) of the easement on a word document via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If utilities are to be relocated retain the ROW as easement, until they are relocated and a replacement easement is recorded with the Register of Deeds to cover the relocated utilities. Provide Planning Staff with the original dedication of easement for relocated public utilities to be recorded with the Register of Deeds. If the water line reverts to a private line provide Public Works with required plans for approval and any required guarantee/petition.
- (3) All improvements shall be according to City Standards, at the applicant's expense, including any continuation of curbing/guttering/drainage. As needed provide Public Works with a guarantee/petition for those needed improvements.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

MITCHELL moved, **HILLMAN** seconded the motion and it carried (11-0).

2-3. VAC 2006-42: Request to Vacate a Portion of a Utility Easement Dedicated by Separate Instrument.

APPLICANTS/OWNERS: Westlink Christian Church

AGENT: Baughman Company, PA c/o Phil Meyer

LEGAL DESCRIPTION: Generally described as a portion of the 20-foot wide easement dedicated by separate instrument (Film 2351 Page 755, see Exhibit provided by applicant) located in the mid-portion of Lot 1, Westlink Christian Church Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located southwest of the Maize Road – 21st Street North intersection. (WCC District #V)

REASON FOR REQUEST: Development and encroachment into a portion of easement

CURRENT ZONING: The site and abutting/adjacent southern, western and eastern properties are zoned "SF-5" Single-family Residential. Properties north of the site are zoned "LC" Limited Commercial and "GC" General Commercial.

The applicant has applied for the vacation of the described easement dedicated by separate instrument. There is a sewer line and manholes in the easement. There is no water line in the easement. There are no franchised utilities in the easement. The Westlink Christian Church Addition was recorded with the Register of Deeds June 15, 1998

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the easement dedicated by separate instrument, with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time October 26, 2006 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the easement dedicated by separate instrument described in the petition should be approved with conditions:
1. Any relocation or reconstruction of the sewer line – manhole/utilities located in the easement made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide Public Works with any necessary plans for review and approval of relocated sewer line and manholes. Provide Public Works with a petition/guarantee to relocate the sewer line and manholes. Provide Planning with an easement to be recorded with the Register of Deeds. Retain the easement until all utilities have been relocated. If the sewer line and manholes revert to a private line provide Public Works with required plans for approval and any required guarantee/petition. If the sewer and manhole are to be abandoned provide Public Works with a guarantee and a temporary easement until the work is completed per City standards. Provide Planning staff with a legal description of the approved vacated (portion) of the easement on a word document via e-mail.
 2. All improvements shall be according to City Standards, at the applicant's expense.
 3. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of the sewer line – manhole/utilities located in the easement made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide Public Works with any necessary plans for review and approval of relocated sewer line and manholes. Provide Public Works with a petition/guarantee to relocate the sewer line and manholes. Provide Planning with an easement to

be recorded with the Register of Deeds. Retain the easement until all utilities have been relocated. If the sewer line and manholes revert to a private line provide Public Works with required plans for approval and any required guarantee/petition. If the sewer and manhole are to be abandoned provide Public Works with a guarantee and a temporary easement until the work is completed per City standards. Provide Planning staff with a legal description of the approved vacated (portion) of the easement on a word document via e-mail.

2. All improvements shall be according to City Standards, at the applicant's expense.
3. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

MITCHELL moved, **HILLMAN** seconded the motion and it carried (11-0).

❖ **PUBLIC HEARINGS**

3. **Case No.: ZON2006-46** – Family Video Movie Club / Levi Dinkla requests a zone change from “SF-5” Single-family Residential to “LC” Limited Commercial on property described as;

The North 75 feet of the S 150 feet of the North Half of Lot 1, in Knights Acres, Sedgwick County, Kansas. Generally located at 635 North Sheridan.

BACKGROUND: The application area is a vacant SF-5 Single-family Residential zoned portion of a lot located south of West Central Avenue and west of North Sheridan Avenue (635 N. Sheridan). The site is .44 acre in size, and is owned by the Family Video Movie Club, which plans to develop this property along with other Limited Commercial zoned property located to the north with a video rental store. The application area is part of Lot 1, Knight Acres Addition, which appears to have multiple owners without benefit of a replat or lot split. There are at least two other owners of portions of this lot, and staff was unable to find any record of a re-plat or lot split. The Office of Central Inspection will probably require a re-plat or lot split before a building permit is granted. Approval of the request would provide uniform zoning on the applicant's ownership.

Surrounding properties are either zoned LC Limited Commercial or SF-5 Single-family Residential, and developed with a mix of residential, commercial and radio broadcast studio uses.

LC signage standards permit .5 square feet of signage times the property's frontage along a collector street.

CASE HISTORY: Knight Acres Addition was recorded in 1918.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Limited Commercial; residential, commercial uses and radio broadcast studio, most of which is owned by the applicant
SOUTH:	SF-5	Single-family Residential; residential
EAST:	LC	Limited Commercial and TF-3 Two-family Residential; residential
WEST:	LC	Limited Commercial; broadcast radio tower

PUBLIC SERVICES: Public services are available. Sheridan is an urban collector with an average daily traffic volume of 2,860. The western half of Sheridan has only 25 feet of half street right-of-way. Central Avenue carries an average daily traffic volume of 13,712 trips. As a four-lane facility, Central can handle between 20,000 to 23,000 trips before service levels are impacted.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” depicts this site as appropriate for “urban residential.” The Metropolitan Area Planning Commission has a policy of supporting the expansion of existing businesses. Commercial Guidelines stipulate that any commercial use in proximity to residential development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses. Unified Zoning Code standards include: compatibility setbacks for buildings, building height and dumpster placement, zoning required screening, work area screening, landscape buffering and shielding of lighting.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED; subject to a replat or lot split being completed within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding properties are a mix of Limited Commercial, Two-family Residential and Single-family Residential zoning. The uses in the area also mixed ranging from vacant, commercial, broadcast studio and residential. This is an older part of Wichita with older buildings and homes. Central is a major east-west arterial, and the applicant's ownership north of the application area has frontage along Central.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned SF-5 Single-family Residential but is vacant. As an infill site it is possible the property could be developed as currently zoned, but it is unlikely. The site is probably too small to attract significant attention for infill residential development, and the age of surrounding residential development probably inhibits new residential construction.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval will allow commercial activities to reach further south of Central, however if approved as requested, the applicant's ownership would have uniform zoning.
4. Length of time the property has been vacant: The property is currently vacant and appears to have been so for a considerable amount of time.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" depicts this site as appropriate for "urban residential." The Metropolitan Area Planning Commission has a policy of supporting the expansion of existing businesses.
6. Impact of the proposed development on community facilities: Anticipated impacts can be addressed by existing facilities. Approval of this small an area of LC zoning will not detrimentally affect community facilities.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **MARNELL** seconded the motion and it carried (11-0).

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4. **Case No.: ZON2006-47** – R & R Realty, LLC, c/o Jay W. Russell (owner); Baughman Company, PA, c/o Russ Ewy (agent) Request County zone change from "LC" Limited Commercial to "SF-20" Single-family Residential on 3.78 acres on property described as;

Tract 1:

That part of the SE of Sec. 22, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at the SE corner of said SE; thence N010144W along the east line of said SE, 312.22 feet to a point 600.00 feet normally distant north of the south line of Government Lot 5 in the NE of Sec 27, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas, and for a point of beginning; thence S890608W parallel with the south line of said Government Lot 5, 311.00 feet; thence N010144W parallel with the east line of said SE, 205.48 feet; thence N891545E, 311.00 feet to a point on the east line of said SE; thence S010144E along the east line of said SE, 204.61 feet to the point of beginning, except road rights-of-way of record. (Containing 57629 Sq. Ft.)

Tract 2:

That part of Government Lot 1, in the NE of Sec. 27, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at the NE corner of said Government Lot 1; thence S890608W along the north line of said Government Lot 1, 311.14 feet for a point of beginning; thence S004353E, 600.00 feet; thence S890608W parallel with the north line of said Government Lot 1, 288.90 feet to a point 600.00 feet normally distant west of the east line of said Government Lot 1; thence N004341W parallel with the east line of said Government Lot 1, 600.00 feet to a point on the north line of said Government Lot 1; thence N890608E along the north line of said Government Lot 1, 288.87 feet to the point of beginning, except road rights-of-way of record, TOGETHER with that part of Government Lot 5 in the NE of said Sec. 27 and that part of the SE of Sec. 22, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at the SE corner of said Government Lot 5; thence S890608W along the south line of said Government Lot 5, 311.00 feet for a point of beginning; thence continuing S890608W along the south line of said Government Lot 5, 289.00 feet to a point 600.00 feet normally distant west of the east line of said Government Lot 5, thence N004104W parallel with the east line of said Government Lot 5, 289.46 feet to a point on the north line of said Government Lot 5; thence N010144W parallel with and 600.00 feet normally distant west of the east line of the SE of said Sec. 22, 310.54 feet to a point 600.00 feet normally distant north of the south line of said Government Lot 5; thence N890608E parallel with the south line of said Government Lot 5, 289.00 feet; thence S010144E parallel with the east line of said SE; 311.35 feet to a point on the south line of said SE; thence S004104E parallel with the east line of said Government Lot 5, 288.65 feet to the point of beginning, except road rights-of-way of record. (Containing 329388 Sq. Ft.) Generally located southwest of 45th Street North and Hoover Road.

BACKGROUND: The applicant requests "SF-20" Single-family Residential zoning on a 3.78-acre site located on the south side of 45th Street North approximately 300 feet west of Hoover Road. The property is zoned "LC" Limited Commercial and currently is in agricultural use. A single-family residential subdivision is being planned for the site.

To the east all the abutting property is zoned LC. The same owner as this request owns the northern half of the abutting property. A farmstead under different ownership abuts the southern half of the east property line, and the southern one-third of it was approved recently for LC zoning to consolidate the tract into one zoning district (ZON2005-00047). The Kingsbury

tract is located to the east of Hoover Road. It is zoned LC at the corners and SF-5 for the rest of the tract. Currently a sand and gravel extraction is being operated on the Kingsbury site; the long-term use for the property is as parkland. The adjacent properties to the northwest, west and south are zoned SF-20 and in agricultural use with scattered farmsteads or suburban residences.

CASE HISTORY: The property was zoned LC as part of Sedgwick County commercial zoning of 600' x 600' tracts of property at the corners of county line road intersections within the three-mile ring of Wichita in 1958. A companion request (ZON2006-00048) from LC to SF-20 (and SF-20 to LC) is being considered concurrently for the adjacent property to the north of 45th Street North.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Agricultural, farmstead
SOUTH:	SF-20	Agricultural
EAST:	LC, SF-5	Agricultural, farmstead, sand pit/open space (future parkland)
WEST:	SF-20	Agricultural, farmstead

PUBLIC SERVICES: 45th Street North is an unpaved county road designated as a major collector (rural) on the Transportation Plan. Municipal water and sewer services are not available at the current time.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for "employment/industry center" land use category. This category includes industrial, manufacturing, service and non-institutional uses but not specifically retail or commercial uses or residential uses. This designation does not conform to the current zoning or the proposed zoning.

RECOMMENDATION: The applicant wishes to downzone this site for the purpose of single-family residential development in conjunction with a large subdivision being planned for the property north and south of 45th Street North west of Hoover. Unless the governing body preemptively rezones the tract to industrial zoning, the property automatically will become SF-5 upon annexation and the developer could proceed with residential development. Keeping the application area in LC zoning neither prevents the surrounding property to the west, south and northwest from residential development nor achieves the designation of "employment/industry center." Based upon this factor and information available prior to the public hearings, planning staff recommends that the zone change request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: To the east all the abutting property is zoned LC. The same owner as this request owns the northern half of the abutting property. A farmstead under different ownership abuts the southern half of the east property line, and the southern one-third of it was approved recently for LC zoning to consolidate the tract into one zoning district (ZON2005-00047). The Kingsbury tract is located to the east of Hoover Road. It is zoned LC at the corners and SF-5 for the rest of the tract. Currently a sand and gravel extraction is being operated on the Kingsbury site; the long-term use for the property is as parkland. The adjacent properties to the northwest, west and south are zoned SF-20 and in agricultural use with scattered farmsteads or suburban residences.
2. The suitability of the subject property for the uses to which it has been restricted: The current LC zoning permits single-family use but also allows commercial use. However, the presence of the LC zoning introduces uncertainty that the property could be converted to commercial use in the future; this can deter the desirability of the property for residential development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: No significant impact.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for "employment/industry center" land use category. This category includes industrial, manufacturing, service and non-institutional uses but not specifically retail or commercial uses or residential uses. This designation does not conform to the current zoning or the proposed zoning.
5. Impact of the proposed development on community facilities: The downzoning should have no significant impact on community facilities, however, urban-scale development should not proceed until municipal services and paved roads are available to serve the site.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **MARNELL** seconded the motion and it carried (11-0).

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5. **Case No.: ZON2006-48** – Alan L. Rennick and George R. Rennick c/o Dennis Wetta (owner); R & R Realty, LLC, c/o Jay W. Russell (developer); Baughman Company, PA, c/o Russ Ewy (agent) Request County zone change from

"LC" Limited Commercial to "SF-20" Single-family Residential and zone change from "SF-20" Single-family Residential to "LC" Limited Commercial on property described as;

Tract 1:

That part of the SE of Sec. 22, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at the SE corner of said SE; thence N010144W along the east line of said SE, 312.22 feet to a point 600.00 feet normally distant north of the south line of Government Lot 5 in the NE of Sec 27, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas, and for a point of beginning; thence S890608W parallel with the south line of said Government Lot 5, 311.00 feet; thence N010144W parallel with the east line of said SE, 205.48 feet; thence N891545E, 311.00 feet to a point on the east line of said SE; thence S010144E along the east line of said SE, 204.61 feet to the point of beginning, except road rights-of-way of record. (Containing 57629 Sq. Ft.)

Tract 2:

That part of Government Lot 1, in the NE of Sec. 27, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at the NE corner of said Government Lot 1; thence S890608W along the north line of said Government Lot 1, 311.14 feet for a point of beginning; thence S004353E, 600.00 feet; thence S890608W parallel with the north line of said Government Lot 1, 288.90 feet to a point 600.00 feet normally distant west of the east line of said Government Lot 1; thence N004341W parallel with the east line of said Government Lot 1, 600.00 feet to a point on the north line of said Government Lot 1; thence N890608E along the north line of said Government Lot 1, 288.87 feet to the point of beginning, except road rights-of-way of record, TOGETHER with that part of Government Lot 5 in the NE of said Sec. 27 and that part of the SE of Sec. 22, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at the SE corner of said Government Lot 5; thence S890608W along the south line of said Government Lot 5, 311.00 feet for a point of beginning; thence continuing S890608W along the south line of said Government Lot 5, 289.00 feet to a point 600.00 feet normally distant west of the east line of said Government Lot 5, thence N004104W parallel with the east line of said Government Lot 5, 289.46 feet to a point on the north line of said Government Lot 5; thence N010144W parallel with and 600.00 feet normally distant west of the east line of the SE of said Sec. 22, 310.54 feet to a point 600.00 feet normally distant north of the south line of said Government Lot 5; thence N890608E parallel with the south line of said Government Lot 5, 289.00 feet; thence S010144E parallel with the east line of said SE; 311.35 feet to a point on the south line of said SE; thence S004104E parallel with the east line of said Government Lot 5, 288.65 feet to the point of beginning, except road rights-of-way of record. (Containing 329388 Sq. Ft.) Generally located northwest of 45th Street North and Hoover Road

BACKGROUND: The applicant requests to reposition the boundary between "SF-20" Single-family Residential and "LC" Limited Commercial zoning on 5.1 acres located north of 45th Street North and west of Hoover Road. The existing LC property would be moved northward by 205 feet along Hoover Road, but would be decreased approximately 300 feet along 45th Street North. 1.32 acres of LC would be added along Hoover and 3.78 acres of LC would be zoned residentially on 45th Street North, for a net change of 2.46 acres. The result would be a 900-foot strip of LC zoning abutting Hoover Road, and would mimic the LC pattern south of 45th Street North. The property currently is in agricultural use. A single-family residential subdivision is being planned for the area proposed for residential zoning.

All four corners of 45th and Hoover are zoned LC but no commercial use is developed yet. Otherwise, the land west of Hoover Road is zoned SF-20 and is in agricultural use with scattered farmsteads and suburban residences. The land east of Hoover Road, which is known as the Kingsbury tract, is zoned SF-5 except for the LC corners. Currently a sand and gravel extraction is being operated on the Kingsbury site; the long-term use for the property is as parkland.

CASE HISTORY: The property that currently is LC was zoned this way as part of Sedgwick County commercial zoning of 600' x 600' tracts of property at the corners of county line road intersections within the three-mile ring of Wichita in 1958. A companion request (ZON2006-00047) from LC to SF-20 is being considered concurrently for the adjacent property to the south of 45th Street North.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20	Agricultural, farmstead
SOUTH:	LC	Agricultural
EAST:	LC, SF-5	Agricultural, sand pit/open space (future parkland)
WEST:	SF-20	Agricultural, farmstead

PUBLIC SERVICES: 45th Street North is an unpaved county road designated as a major collector (rural) on the Transportation Plan. Municipal water and sewer services are not available at the current time.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for "urban development mix" land use category. The SF-20 zoning is compatible with this designation. The urban development mix category allows for the possibility of local commercial uses. Commercial Location Guideline #3 stipulates that any commercial use in proximity to residential development, such as in this case, the development "should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses."

RECOMMENDATION: The property requested for expansion of LC would be subject to the Unified Zoning Code requirements for screening and compatibility standards but would not be subject to the use limitations intended to prevent

the more intensive types of commercial uses such as vehicle repair, limited, and convenience stores in close proximity to residential development. The County Commission approved the 600 x 600 foot tracts of zoning in 1958 with the understanding the LC zoning would be subject to CUP overlay provisions once it was developed, since the tracts were just over the threshold of 6 acres in size. By downzoning 3.78 acres to SF-20, the CUP would not be required, which opens the door for potential conflict with the abutting residential lots. One way to reduce potential impacts is to limit the property to the "NR" Neighborhood Retail zoning district, which limits the types of use, size of retail and eliminates drive-in or in-car service. Another approach would be a protective overlay. The proposed SF-20 zoning would be in conformance with the Comprehensive Plan.

Based upon these factors and information available prior to the public hearings, planning staff recommends the following:

THE ZONE CHANGE FOR SF-20 BE APPROVED;

THE ZONE CHANGE FOR LC BE DENIED BUT APPROVED FOR NR NEIGHBORHOOD RETAIL.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All four corners of 45th and Hoover are zoned LC but no commercial use is developed yet. Otherwise, the land west of Hoover Road is zoned SF-20 and is in agricultural use with scattered farmsteads and suburban residences. The land east of Hoover Road, which is known as the Kingsbury tract, is zoned SF-5 except for the LC corners. Currently a sand and gravel extraction is being operated on the Kingsbury site; the long-term use for the property is as parkland.
2. The suitability of the subject property for the uses to which it has been restricted: For the area requested for SF-20, the current LC zoning permits single-family use but also allows commercial use. However, the presence of the LC zoning introduces uncertainty that the property could be converted to commercial use in the future; this can deter the desirability of the property for residential development. For the area requested for LC, NR Neighborhood Retail is more compatible in scale and use for a small lot abutting a future residential lot.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: LC without any additional limitations could result in uses with noise associated with high traffic generating uses such as convenience stores and fast-food restaurants and from drive-through windows, light spillover from queuing lanes shining toward residential lots, outdoor display and storage which is prohibited in NR, more intensive signage, narrower setbacks abutting residential lots (20 feet instead of 35 feet); all of these characteristics could be a detriment to the abutting residential use.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for "urban development mix" land use category. The SF-20 zoning is compatible with this designation. The urban development mix category allows for the possibility of local commercial uses. Commercial Location Guideline #3 stipulates that any commercial use in proximity to residential development, such as in this case, the development "should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses."
5. Impact of the proposed development on community facilities: The downzoning should have no significant impact on community facilities, however, urban-scale development should not proceed until municipal services and paved roads are available to serve the site. Since the request yields a net loss of commercial zoning, it should not pose a significant increase in traffic demand over that already allowed.

DONNA GOLTRY Planning Staff presented the staff report.

HILLMAN asked if the property owner would be acceptable to staff's alternative recommendation to deny the Limited Commercial request and approve neighborhood retail instead.

GOLTRY responded no.

WARNER clarified that the area south of the requested Limited Commercial was Limited Commercial (the area at Hoover and 45th St. North) and asked why staff wasn't concerned about single-family residential right next to that location.

GOLTRY said that perhaps in retrospect, staff should have recommended denial of the entire downzoning request to single-family residential south of Hoover. However, the area south of Hoover is not in unified ownership so would not be subject to CUP provisions or other protective overlay requirements regardless of whether the down-zoning (ZON2006-47) was approved. In this situation, she said she saw no harm in having a larger residential development and keeping a thin strip of commercial zoning along Hoover Rd; the only problem was insuring that the scale and intensity of commercial development interfaced well with the nearby residential neighborhood.

RUSS EWY, Baughman Co., agent for the applicant, said this was somewhat of a "squirrely" case. As extra background, he said the southeast quarter section together with the northeast and northwest quarter sections are tied together. He said a previously approved Community Unit Plan at 45th Street North and Ridge Road bookends into this development on the

west and the area around 45th Street North and Hoover Road bookends into the east side. He said there were approximately 600 hundred lots. He said since the Kingsbury site was no longer being considered for a landfill, it opened the area up for land uses other than industrial. He commented that as with all Jay Russell developments, they usually get ahead of residential development and establish all non-residential uses in and around the residential areas first. He referred Commissioners to agenda Item #4, which sought to do the exact same thing with the southwest area. He said they are putting zoning in place prior to homes being built and that all property owners in the future would be made fully aware of that. He concluded by requesting that the LC zoning be granted.

Responding to a question from **BISHOP**, **EWY** explained that the Rennick brothers owned the quarter section just south of the area and that they would be retaining a five-acre tract.

BISHOP said she understood his assertion that purchasers of land will understand the ramifications of "LC" Limited Commercial zoning, but she truly had to question whether all of the possibilities of "LC" would be provided to those consumers of the surrounding residential property and whether or not that "runs with the land".

EWY commented that at the time of closing, Mr. Russell has the contract buyer sign a disclosure form that they understand that the adjacent property is commercial, or office or some other use. He concluded by saying that there is a net reduction in the amount of commercial zoning at this intersection. He added that the commercial zoning on the east of Hoover may never be developed since it is owned by the City of Wichita and is intended for park use.

MOTION: To approve the requested zone change for "SF-20" Single-family Residential and "LC" Limited Commercial.

ALDRICH moved, **HENTZEN** seconded the motion.

SUBSTITUTE MOTION: To approve the requested zone change for "SF-20" Single-family Residential; that the zone change for "LC" Limited Commercial be denied, but approved for "NR" Neighborhood Retail instead.

BISHOP moved, **GISICK** seconded the motion.

DUNLAP said he could not support the substitute motion, because of the history of the developer over the last 15-20 years. He added that when the CUP comes back to the Commission, they could request a larger buffer at that time.

BISHOP responded that the Commission was not supposed to consider land use cases based on the identity of the developer.

GISICK asked the agent if "neighborhood retail" would prohibit any uses they intended for the lot.

EWY said not that he was aware of any. He said the attorney for the applicant did not want to exclude restaurants and added that signage was another issue.

GISICK asked if those issues could be approved under a conditional use.

EWY said no, that would not be available under conditional use.

SUBSTITUTE MOTION: Failed (8-3).

ALDRICH, ANDERSON, DOWNING, DUNLAP, GISICK, HENTZEN, MARNELL, MITCHELL - Nay.

ORIGINAL MOTION: Carried (10-1). **BISHOP** - Nay.

6. **Case No.: CON2006-46** – Charley & Tan Miller Request Conditional Use Permit for a temporary (medical hardship) accessory manufactured home on property zoned "RR" Rural Residential on property described as;

Beginning at the Northeast corner of the Southeast Quarter; thence South 330 feet; thence West 1320 feet; thence North 330 feet; thence East to beginning. Section 10, Township 29 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas. Generally located midway between 79th and 87th Streets South, on the west side of 127th Street East

BACKGROUND: The applicants are seeking a Conditional Use to permit a temporary, accessory manufactured home dwelling in the County. The 9.91-acre unplatted tract is zoned "RR" Rural Residential. The applicants have stated that their 28-year old son has a permanent disability (medical hardship), which will cause him to lose his right leg up to his hip and thus requires him to be monitored by onsite care provided by them. The applicants will continue to live in the existing single-story residence (approximately 1,450-square feet, built in 1974) on the site. Their adult child will live in an approximately 1,400-square foot manufactured home; the temporary, accessory manufactured home dwelling. Per Art.III, Sec.III-D.6.I (3), of the Unified Zoning Code (UZY) a temporary, accessory manufacture home dwelling can be considered as a Conditional Use in the County. The site is located within the city of Derby's area of zoning influence and must be considered by the Derby Planning Commission prior to consideration by the MAPC.

The site is located on the west side of 127th Street East, a dirt and sand road, midway between 79th & 87th Streets South, in a rural part of the County. All abutting and adjacent properties are zoned "RR". Agricultural fields/crop lands about the site's west, south and north sides, with more agricultural fields/crop lands east, across 127th, of the site. The site is one of three single-family residences located on this section of 127th between 79th & 87th Streets South. Both of these neighbors are located approximately 680-1,000-feet south/southeast of the site.

The applicant has provided a site plan that shows the location of the existing residence, some outbuildings, trees/landscaping, a lagoon and the proposed temporary, accessory manufactured home dwelling. The existing residence is located more than 550-feet off of 127th and is screened from the road by numerous trees. The proposed temporary, accessory manufactured home dwelling is shown located behind the existing residence and over 100-feet from the south property line.

CASE HISTORY: CoBZA 6-88 was a County Use Exception permitting a temporary second dwelling unit (mobile home) on the site, which at that time was a 20-acre tract. The applicants at that time, Garland & Shirley Sapp, requested the Use Exception to care for an elderly parent. Conditions of approval included that the mobile home be allowed on the site only as long as the elderly parent lived in it, that it be removed within 30 days after the elderly parent ceased to live in it, that it comply with all setbacks of the zoning district and flood plain regulations, that all permits and inspections are acquired, including health for the existing lagoon and that it not be located closer to 127th or the north property line than the existing residence. That temporary dwelling unit is no longer on the site. The Derby Planning Commission unanimously approved the current Conditional Use request as recommended by the MAPD at their November 2, 2006 meeting.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	agricultural fields/crop land
SOUTH:	"RR"	agricultural fields/crop lands, two other homes on this section of 127 th
EAST:	"RR"	agricultural fields/crop lands
WEST:	"RR"	agricultural fields/crop lands

PUBLIC SERVICES: The property is located on 127th Street East, a dirt and sand Rockford Township road with a 30-foot half-street right of way. The property has a water well and a lagoon for sewage, with no public sewer available. The site is located within Rural Water District 3's service area. All other utilities appear to be available.

CONFORMANCE TO PLANS/POLICIES: *The Comprehensive Plan's Wichita and Small Cities 2030 Urban Growth Area Map* identifies this area as a "Rural Functional Land Use Category". This category encompasses land outside the 2030 urban growth area of Wichita and the small cities of Sedgwick County. The category's intended uses are agricultural, rural based uses that are no more offensive than those agricultural uses commonly found in the county and predominately larger lot residential suburban subdivisions with provisions for individual or community water and sewer services.

The UZC, Art.III, Sec.III-D.6.I(3) lists temporary, accessory manufactured home dwellings in the County as a Conditional Use subject to the following conditions and requirements: (a) The location of the manufactured home shall conform to all setback requirements of the district in which located; (b) If the property is not served by a public water supply and municipal type sewer system, the minimum lot size shall be determined by the County Health Department; (c) The unit shall comply with all of the standards of Art.III, Secs.III-D.6.I(1) and III-D.6.I(2); (d) The applicant shall show due cause that hardship exists and that the hardship cannot reasonably be alleviated without the granting of the Conditional Use; and (e) The Planning Commission shall determine a reasonable time limit for each individual case. The temporary, accessory manufactured home dwelling shall be removed from the property within 90 days after any change in circumstances used as a basis for the Conditional Use.

The UZC defines a "manufactured home" as one or more mobile components constructed to meet the 42 U.S.C. 5403 HUD Code, providing all accommodations necessary to be a dwelling unit, and connected to all utilities in conformance with a applicable regulations.

RECOMMENDATION: Planning staff finds that the application meets the conditions of the UZC Art.III, Sec. III-D.6.I(3). Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions.

1. The applicants shall obtain all applicable permits including, but not limited to: building, health and zoning. Specifically, the requirements of Art.III, Sec.III-D.6.I(3) of the Unified Zoning Code shall be met.
2. The temporary, accessory manufactured home dwelling shall meet the post-1976 42 U.S.C. 5403 HUD Code.
3. The temporary, accessory manufactured home dwelling shall remain on the site as an accessory dwelling for the applicants' adult disabled child as long as the applicants' adult disabled child resides in it. The applicants shall report to the County Code Enforcement Office on a yearly basis, every January, the status of the occupancy of this temporary, accessory manufactured home dwelling.
4. The temporary, accessory manufactured home dwelling shall be removed from the property within 90 days after any change in the circumstances used as a basis for the Conditional Use.
5. Development and maintenance of the site shall be in conformance with the approved site plan.
6. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the surrounding area: All property surrounding the application area is zoned "RR" and is characterized by agricultural fields/crop lands with infrequent large tract single-family residences or farmsteads.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR", with its intended uses being agricultural, rural based uses that are no more offensive than those agricultural uses commonly found in the county and predominately larger lot residential exurban subdivisions with provisions for individual or community water and sewer services. The site could continue to be used as it is without the Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Provided that the proposed temporary, accessory manufactured home dwelling meets all applicable codes, and because of the temporary nature of the requested Conditional Use, the proposed accessory use should have no affect on the surrounding properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested Conditional Use is in conformance with *The Wichita-Sedgwick County Comprehensive Plan* and the UZC, Art.III, Sec.III-D.6.I(3) provisions for accessory manufactured home dwellings in the County.
5. Impact of the proposed development on community facilities: None identified.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **MARNELL** seconded the motion and it carried (11-0).

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7. **Case No.: CON2006-48** – Ron Smith (owner), Allen Wilkie (agent) Request Conditional Use Permit for a nightclub in the City in "LC" Limited Commercial zoning on property described as;

Lots 16, 17, 18, 19, 20, 21, 22, and 23 Arlington Addition, an Addition to Wichita, Sedgwick County, Kansas.

AND

Lots 77 and 77 on Lawrence Avenue, J. P. Hilton's Addition, Wichita, Sedgwick County, Kansas. Generally located on the east side of Broadway Avenue, approximately 180-feet north of Murdock.

BACKGROUND: The application area is a former church building located east of Broadway and north of Murdock in "LC" Limited Commercial zoning. A business is using the former church building for weddings, receptions, and special events. The business desires to allow live music, dancing, and alcoholic drinks. Nightclubs are a permitted use in LC zoning. However, the site is within 200 feet of residential zoning, and therefore a Conditional Use for a Nightclub is required for the desired activities. The residential zoning near this site is "B" Multi-family Residential zoning located east of the site, across the alley, and used for hospital parking.

The applicant's floor plan demonstrates a 3,000 square-foot facility, and their site plan indicates 88 parking spaces on the site. The Unified Zoning Code would require 1 parking space per 45 square feet of public assembly for the proposed facility, or 67 total spaces, less than the 88 existing on the site. Surrounding properties include the hospital parking to the east, a fast food restaurant to the north, office space to the south, a tavern to the east, as well as an Inter-faith Ministries run group residence to the east.

CASE HISTORY: The Arlington Addition was recorded in 1911.

ADJACENT ZONING AND LAND USE:

NORTH: LC Limited Commercial	Restaurant
SOUTH: LC Limited Commercial	Office
EAST: B Multi-family Residential	Hospital Parking
WEST: LC Limited Commercial	Tavern, Group Residence

PUBLIC SERVICES: Broadway is a four-lane arterial street at this location with a 75-foot right-of-way.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* depicts this location as being appropriate for "local commercial," which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities. The Midtown Neighborhood Plan identifies this site as appropriate for institutional uses, consistent with the former church use of the site.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. The Nightclub Conditional Use shall be for rented special events only.
- B. The site shall be in conformance with the approved site plan.
- C. No outdoor entertainment, food or drink service, or community assembly shall be permitted on the site.
- D. The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of a Nightclub.
- E. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding "LC" Limited Commercial zoning and land uses are not out of character with the proposed special events rental facility. The adjacent "B" Multi-family zoned property is used for a hospital parking lot, and will most likely never be developed with residential uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC which allows a wide variety of retail, office and residential uses. The site could be used as zoned and developed or redeveloped as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will permit live music, dancing, and alcoholic drink service on the site. As the proposed use is for rented special events only, and no residential uses abut this site, the request should have no detrimental affect on nearby property. The site meets the code required parking standards, and should not affect adjacent business parking.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 *Wichita Functional Land Use Guide* depicts this location as being appropriate for "local commercial," which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities. A rental special event facility would be in general conformance with the local commercial designation. The proposed facility is different than the Midtown Neighborhood plan designation of this site for institutional use, but the request does not otherwise conflict with that plan.
5. Impact of the proposed development on community facilities: None identified.

JESS MCNEELY Planning Staff presented the staff report.

He reported that DAB VI voted 9-1 to approve the conditional use but requested that language be added to condition "A" of the staff report as follows "*to define special events such as weddings, receptions, graduation parties and the like.*" He said staff was supportive of that recommendation.

Responding to a question, **McNEELY** explained that there was parking north and south of the building. He said a site plan had been submitted and that when the applicant receives licenses for various activities; they must demonstrate that they can meet the parking requirement to the Office of Central Inspection.

MITCHELL commented that he felt the proposed language was too broad and that both the City and the applicant could easily misinterpret it.

McNEELY explained that the term "such as" was used liberally within the Uniformed Zoning Code. He said the intent of the business was to provide a venue for weddings, wedding receptions, graduation receptions and other similar special functions. He said staff wanted to restrict activities so the building doesn't become an "open to the public every night" nightclub. He said staff did not see the DAB's proposal of adding the specific language to give examples as a problem.

WARNER suggested if it was not against the rules, why not just state that the building cannot be used as a nightclub.

ALDRICH clarified that there was nothing to prevent them from renting the building every single night.

McNEELY acknowledged that was correct, as long as the facility was rented for a special event. Responding to a question about restrictions on singing and lighting, he clarified that the area was zoned "LC" Limited Commercial.

BISHOP commented that as far as definitions, there were no cover charges for special events.

McNEELY agreed and added that also included events not open to the public. He added that the business owner could come back to the MAPC with an amendment to the conditional use changing it to open a nightclub in the future.

DR. CHARLES COLEMAN said the chapel would not be used for nightclub type functions only weddings, wedding receptions, family reunions, memorials and other functions that they would keep track of. He also mentioned that the group had just purchased the building to the south yesterday.

BISHOP asked if they would have any objection to including the language suggested by the DAB under condition A.

After **BISHOP** clarified the language, **COLEMAN** said there was no problem with that.

MOTION: To approve with the published comments of staff contained in the staff report.

HENTZEN moved, **HILLMAN** seconded the motion.

DOWNING clarified not the DAB comments, but the staff comments.

SUBSTITUTE MOTION: Approve the application with language provided by staff with the addition of the words "such as weddings, receptions, graduation parties and the like."

BISHOP moved, **WARNER** seconded the motion.

SUBSTITUTE MOTION failed (6-5). **ANDERSON, DOWNING, DUNLAP, HENTZEN, MARNELL, MITCHELL** - Nay

BISHOP said she would support the original motion under protest.

ORIGINAL MOTION carried (11-0).

8. **Case No.: CON2006-49** – St. Albans Episcopal Church (applicant), PEC c/o Rob Hartman (agent) Request Conditional Use Permit for personal improvement service (an art school) in "GO" General Office zoning, associated with ZON2006-00037

Lot 13, Block 2, Cottonwood Village Sixth Addition, Wichita, Sedgwick County, Kansas. Generally located north of 29th Street North and east of Gouverneur (7230 E. 29th Street North)

BACKGROUND: The applicant was approved for a zone change to "GO" General Office at the Wichita City Council on November 7, 2006. The zone change was subject to a Protective Overlay limiting the site to uses permitted in the "NO" Neighborhood Office zoning district, and Personal Improvement Service. The applicant now requests a Conditional Use for a Personal Improvement Service (a children's art school) in GO zoning. The application area is a former church site on a 2.1-acre platted lot, located north of 29th Street North and east of the Gouverneur intersection.

The immediate surrounding area is zoned SF-5 and developed with single-family residences to the north and east. West of the site is an elementary school and single-family residences. Southwest of the site, across 29th Street, is an SF-5 zoned apartment complex, part of the DP-73 Residential CUP. Southeast of the site is an SF-5 zoned nursing home, also a part of DP-73. GO zoned property exists 560 feet east of the site, on the south side of 29th Street. The western lots of this GO property are vacant; one lot is developed with a medical office use. This GO property is part of the greater CUP DP 108, which includes "LC" Limited Commercial zoned property at the Rock intersection. Three of the four corners at the Rock/29th intersection are developed with LC zoned CUPs.

CASE HISTORY: The subject property was platted as Lot 13, Block 2, Cottonwood Village Addition in 1985.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"	Single-family residential
SOUTH: "SF-5", DP-73	Multi-family residential, nursing home
EAST: "SF-5"	Single-family residential
WEST: "SF-5"	Elementary school, single-family residential

PUBLIC SERVICES: The subject property has frontage along 29th Street North, a four-lane arterial street with a 50-foot half-street right-of-way (ROW). The south side of 29th has an additional turn lane at the Gouverneur intersection. All other typical municipal services are available. The application area has a 40-foot pipeline easement running north-south through the property.

CONFORMANCE TO PLANS/POLICIES: The Wichita Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Major Institutional" use, consistent with the church on the site. However, the site was recently approved for GO zoning.

RECOMMENDATION: The recent zone change request was discussed in public hearings at both DAB I and MAPC. At those hearings, the contract purchaser discussed the desire to locate a children's art school at this site. Several neighbors spoke against the zone change, with concerns regarding more intensive land uses permitted under GO zoning. However, general consensus at both public hearings was that the former church would be appropriate for a children's art school.

Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is zoned "SF-5" Single-family residential. Abutting property to the north and east are single-family residences, an elementary school exists to the west, apartments and a nursing home exist to the south. The proposed Personal Improvement Service should not be out of character with the surrounding zoning or land uses.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property approved for "GO" General Office zoning with a Protective Overlay limiting uses on the site to those permitted in NO zoning and Personal Improvement Service. The property could be developed as zoned; however, the recent zone change was approved specifically anticipating the requested Personal Improvement Service.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site has been used until recently as a church, and neighboring property to the west is an elementary school. The use of the site for a Personal Improvement Service should not be significantly more intense than the former church use, and should not have a detrimental affect on nearby property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Major Institutional" use, consistent with the former church on the site. However, the site was recently approved for GO zoning with a Protective Overlay.
5. Impact of the proposed development on community facilities: none anticipated above the impact of the former church on the site.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **MARNELL** seconded the motion and it carried (11-0).

The Metropolitan Area Planning Department informally adjourned at 2:40 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2006.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)